

Meeting of 2006-9-26 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 26, 2006 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Minister Jacob Debusk, First Christian Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Rex Givens, Ward Two

Janice Drewry, Ward Three
Keith Jackson, Ward Four

Robert Shanklin, Ward Five
Jeff Patton, Ward Six (Arrived @ 6:06 p.m.)
Stanley Haywood, Ward Seven
Randy Warren, Ward Eight

ABSENT: None

PRESENTATION OF EMPLOYEE OF THE MONTH FOR SEPTEMBER TO JEFF WELCH, SAFETY AND RISK OFFICER IN THE HUMAN RESOURCES DEPARTMENT.

Jim Scholes, Human Resources Director, stated Jeff has been with the City of Lawton for 23 years. There have been many changes to the safety program since Jeff started. He stated every year Jeff puts together the safety training program.

Mayor Purcell presented a plaque, certificate of honor, two days of nonchargable leave and script money from Chamber merchants.

Mr. Welch thanked his co-workers and the Employee Advisory Committee.

PRESENTATION OF CITIZEN OF THE MONTH TO TONY POKORNEY.

Cynthia Farrell, Mayor s Commission on the Status of Women, presented the award for the Citizen of the Month for September to Tony Pokorney.

Mayor Purcell presented a Certificate of Congratulations from the State of Oklahoma, and a Certificate of Commendation from the Mayor s Office.

Mr. Pokorney stated he is from Chicago, but he has chosen to live in Lawton, Oklahoma. He stated the current City Council is very action oriented and he is very proud of them. He stated they all need to become proud members of this community.

AUDIENCE PARTICIPATION:

Clarice Phillips, 3902 NW Denver, thanked the Street Division for placing the speed zone and school signs along 38th Street by the old Westwood School. She stated she is representing a group of people in her neighborhood that are unhappy about the drainage that is coming off Morford Hills on 38th Street across from Sante Fe. Last Sunday when we had the big rain there was so much water on 38th Street and Sante Fe it was dangerous. She called the Planning Division the next morning and asked for a solution. She stated there is a lot of mud that comes down. She was referred to Mr.

Larry Wolcott and left a voice mail. She has not heard back from him. She called the Mayor's Office and was told that someone would call her back with an answer. She has not heard from anyone. She questioned if, during the review process of these plans, do they look at the effect of the established neighborhoods. She questioned who was responsible for this issue. She stated all of her neighbors try to keep their homes nice and maintain their lawns. Every time they have a rain, the mud comes down.

Mitchell stated the developer/owner of Morford Hills would be responsible. The plans were approved prior to the City adopting a new stormwater drainage ordinance that was put in place February 2006. He stated he will get an answer to her regarding how the drainage is going to be handled in that subdivision.

Haywood questioned if Ms. Phillips called her City Councilmember.

Ms. Phillips stated no, but she has spoken with him in the past.

Shoemate questioned if it usually floods that way. He stated his home also flooded and he is on the opposite side of 38th.

Ms. Phillips stated each time it rains they have the mud.

Mayor Purcell stated that there was a drainage ordinance put into affect several years ago that would have prevented this problem. However, the City Council rescinded that drainage ordinance, therefore things were built with no ordinance in place. A new drainage ordinance was adopted in February of this year to prevent future problems. The City Manager will have to figure out what he can do to solve this problem.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF AUGUST 8, 2006.

MOVED by Givens, SECOND by Jackson, to approve the Minutes of August 8, 2006. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

MOVED by Warren, SECOND by Jackson, to approve the Consent Agenda items. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Anthony Rodriguez in the reduced amount of \$1,652.25 (**Resolution No. 151**), Julio and Donna Macias in the amount of \$640.61 (**Resolution No.152**), Weldon and Debra Love in the reduced amount of \$25,000.00 (**Resolution No.153**). Exhibits: Legal opinions/Recommendations, Resolution No. __, Resolution No. __, Resolution No. __.
2. Consider the following damage claim as recommended for denial: Felix Martinez in the amount of \$100.00. Exhibits: Legal Opinion/Recommendation.
3. Consider approving contracts for cultural programming in the Lawton Metropolitan Area for events that commemorate the state's centennial. Exhibits: Contracts on file in City Clerk's office.
4. Consider adopting a Resolution approving the submission of a Transportation Enhancement (TE) grant application to the Oklahoma Department of Transportation for the landscaping and enhancement of the Tri-level interchange in North Lawton. Exhibits: **Resolution No. 06 -154** and Application Summary. A Complete Application is on file in the Office of the City Clerk.
5. Consider adopting a resolution approving the submission of a Transportation Enhancement (TE) grant application to the Oklahoma Department of Transportation for a streetscape enhancement project for 2nd Street from Gore Boulevard to SW A Avenue and authorize the Mayor to execute. Exhibits: **Resolution 06-155**, Map, Funding Allocation Matrix. Complete application is on file in the Office of the City Clerk.
6. Consider adopting a resolution approving the submission of a Transportation Enhancement (TE) grant application to the Oklahoma Department of Transportation for a streetscape enhancement project for 2nd Street from SW A Avenue to SW C Avenue and authorize the Mayor to execute. Exhibits: **Resolution 06-156**, Map, Funding Allocation Matrix. Complete application is on file in the Office of the City Clerk.
7. Consider accepting a warranty deed from Welch Enterprises, Inc. for right of way needed for the NuMu Creek Channel Improvement Project #2006-10, authorizing the Mayor and City Clerk to execute the deed and authorizing payment for same. Exhibits: Warranty deed is on file in the City Clerk's office.

8. Consider authorizing the Mayor and City Clerk to execute a contract with 050 Engineering Company for the design of the Sludge Processing Building Ventilation Project #2006-11. Exhibits: Agreement is on file in the Engineering Division office.
9. Consider adopting a resolution for the selection of a consulting engineer to conduct the bi-annual inspections required by the National Bridge Inspection Standards (NBIS) Program. Exhibits: Letter from ODOT, **Resolution 06-157**.
10. Consider approving the record plat for Hodges Addition, formerly know as Doe Doe Park Development, Part One, a Replat of portions of Blocks 6, 7, and 8, Radio City Addition. Exhibits: Plat Map.
11. Consider authorizing the Mayor to execute the recertification application for the Community Rating System of the National Flood Insurance Program. Exhibits: Recertification Application (on file in City Clerk s office).
12. Consider accepting a maintenance bond for the 8-inch waterline constructed to serve the Hospice Center located at 1001 SE 36th Street. Exhibits: Maintenance Bond on file in City Clerk s office.
13. Consider acknowledging receipt of a Tier 1 permit from the Oklahoma Department of Environmental Quality for the construction of 275 linear feet of eight (8) inch PVC gravity sewer line and all appurtenances to serve the Billingsley Hyundai Dealership located in the E/2 of the E/2 of the NW/4 of Section 20, T-2-N, R-12-W, I.M., City of Lawton, Comanche County, Oklahoma. Exhibits: Permits to Construct on file in the City Clerk s office.
14. Consider extending the contract (CL05-012) Refuse Containers with Wastequip Teem of Sioux Falls, South Dakota. Exhibits: Department Recommendation, Contract Extension Form.
15. Consider awarding (CL07-003) Axially-split, Double Suction Centrifugal Pump to Automatic Engineering, Inc., of Tulsa, OK. Exhibits: Department Recommendation, Abstract of Bids.
16. Consider approving appointments to boards and commissions. Exhibits: None
17. Consider approval of payroll for the period of August 28 September 10, 2006. Exhibits: None.

OLD BUSINESS ITEMS:

18. Hold a public hearing and adopt a resolution declaring the structure at: 508 N.W. Arlington Avenue to be dilapidated public nuisance, thus causing a blighting influence on the community and detrimental to the public s health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Resolution No 06-____; Summary documents with supporting photos. Reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

Tony Griffith, Neighborhood Services Supervisor, stated this item was brought before the City Council on September 12, 2006. The structure is still vacant. The exterior surface lacks protective treatment. Exterior walls have holes. He stated there was a permit pulled for this property in November 2005 that was never picked up. It expired in May. There are several For Sale signs in front.

PUBLIC HEARING OPENED.

Ernest Foster, 506 Arlington, stated this structure is 10 feet away from his home. He stated this house has been sitting like this for six or seven years. Mr. Nottingham told him he was going to remodel this two years ago. The building permit now is listed under the name of John Jones. He has never seen Mr. Jones on the property. He would like to emphasize that he has a \$125,000 home sitting next to this property.

Bob Ross, attorney for the property owner, stated his client would like the opportunity to fix up the property. He stated there was a substantial amount of work done on the property in 2005. The foundation was repaired, new shingles and felt were put on the roof. There are new windows and about \$4,000 worth of electrical work has been done. His client has spent in excess of \$10,000 on the property so far and would like a chance to finish the project, but cannot finish in the timeframe that is allowed if placed on the demolition list. He requested the City Council grant his client six months to finish the project.

Patton questioned if this had any effect on the moratorium for downtown.

Vincent stated this is not in that area and the moratorium has expired. He stated the Mr. Ross client would have 30 days to acquire a permit, then 30 days to make substantial improvements and if things are moving forward he could receive an additional 90 days. He stated the client could then apply for additional extensions from the City Council.

Shanklin questioned what would happen if they sell the property during the process of taking this to District Court.

Vincent stated if they are in District Court, the new owners are on notice of the District Court action because we filed the notice of lien and it becomes a matter of the abstract. Some new owners will go ahead and buy the property even with the lien notice.

Patton questioned if the clock starts over again.

Vincent stated no.

Mr. Ross stated there are no plans to sell the property in the as is condition. It will not be sold until it is rehabbed.

Vincent stated if the City Council declares it dilapidated and the client makes substantial progress, they could get 6 months.

Mr. Ross stated he understood that, but it puts them in the position of spending more money and being at the whim of the staff as to whether they make substantial progress.

Vincent stated whether they get a remodel permit or a demolition remodel permit, they will still have to bring it up to the same code.

Mr. Ross stated if they had six months, they would not be back here in 30 or 60 days arguing whether or not they have made progress.

Shanklin stated he has stood on Mr. Foster's back porch and he would not like it at all. Someone needs some relief. He hoped to hear something a little more concrete from the property owner.

Mr. Ross stated he was out there today and there is a lot of work to be done. He cannot come in here and promise something he cannot deliver.

Shanklin stated the policy of the Council is that property like this will be put on the D&D list and give that individual 30 days to make the decision as to tearing it down or get a remodel permit.

Mayor Purcell stated one of the problems this City Council has faced year and after is someone coming in good faith and then the house gets sold and they have to go through the same process and start over.

Mr. Ross stated the City Council has given people six months and he is asking for the same thing.

Mr. Foster stated that when the City Council tabled this two weeks ago, the same day someone put a door on the home. That is the first time someone has done anything to the house in over a year. If someone has worked on this house in the past year, he suggested the City Council request to see the paperwork. He stated nothing has happened.

PUBLIC HEARING CLOSED.

MOVED by Shanklin, SECOND by Drewry, to adopt **Resolution No. 06- 158** declaring the structure at 508 N.W. Arlington Avenue to be dilapidated public nuisance. AYE: Jackson, Shanklin, Patton, Warren, Shoemate, Givens, Drewry. NAY: None. ABSTAIN: Haywood. MOTION CARRIED.

NEW BUSINESS ITEMS:

19. Hold a public hearing and consider an ordinance creating Article 18-12, Chapter 18, Lawton City Code, 2005, establishing the Downtown Lawton Overlay District and declaring an emergency. Exhibits: Ordinance 06-____.

Rogalski stated the process of this project started many years ago. This overlay district and the downtown redevelopment project has been an idea in the minds of the Chamber of Commerce and LURA for some time. Last summer the Council approved the revitalization plan and it set the framework for what they are planning on doing in revitalizing this whole area. Being approved in March were the LURA plans for the D-6 area, the downtown one area and the civic center area. LURA plans established new land uses and a new vision for the downtown area.

Shortly after that we established a TIF District. The TIF district has to do with the financing mechanism for downtown redevelopment. In the last couple of years they have been working on designs for 2nd Street. They have obtained a grant from ODOT for phase I 2nd Street redesign project and they are moving forward with that. The plans are 50-75% finished for all of 2nd Street from C Avenue to Ferris. What they have before the City Council tonight is the rezoning of this area and providing some zoning and land use restrictions. The overlay district was established with two purposes. One is set in the code what the vision for this area, what will the buildings look like, what are the setbacks, what are the parking and landscaping requirements. It also provides for protections of the investment for this area.

He stated they started off with the typical land uses and the side yard and front yard set backs are very limited. Some areas have no parking requirements whatsoever. This also includes a very detailed landscaping ordinance. It was modeled after a recent ordinance that was passed in Oklahoma City. The land uses are: medium intensity residential, mixed use, commercial and public facilities. These are exactly the land uses that were passed in the LURA plan. They also provide for two subdistricts: 2nd Street and the C Avenue subdistrict which will provide tighter control since they are the main street and entry corridors.

PUBLIC HEARING OPENED.

Dr. Ernest Sheppard, Chairman of Lawton Urban Renewal Authority, stated the regional concepts for this overlay district came from LURA and the study that they have done in order to arrive at that point. He stated 15 years ago he was appointed to LURA. For the first ten years he was very opposed to spending any money. They were able to accumulate and increase those funds from left over federal funds. He stated this was the first time that he felt like they should spend money on a project. This is a worthwhile project in that area. He presented slides of South Lake, Texas which showed the concept and what the overlay district describes. This includes sidewalks, awnings and multiple level buildings. He offered to answer any questions the City Council may have regarding LURA's recommendation.

Shanklin questioned if we were going to clean up all of the D-6 property and give it to a developer to do this.

Sheppard stated that may be part of the scheme here. LURA already owns some property in the D-6 area.

Shanklin stated that they don't have any two or three story buildings.

Sheppard stated they do not have any two or three story buildings at the present time.

Shanklin questioned if we are expecting to see a Target or some other business like that with a funeral parlor somewhere on the corner of the parking lot.

Sheppard stated he would not think that would be advantageous to either party.

Shanklin questioned if they were going to clean this up in the development proposal that is out.

Sheppard stated there is a request for qualifications for developers for that particular area. Once that request comes back they will be looking at developers and see what their interest is in the D-6 area. If there is sufficient interest for them to develop that particular area, then they may begin acquisitions of the property. Right now they have been trying to acquire any dilapidated property that they can.

Shanklin stated the increment sales tax has never been discussed on this council floor per say. Sales tax which is 37% of our budget, right now today in 2006-2007, sale of water, sewage and solid waste is another 25% and we are going to take one economy and move it over here. If we only have \$100 and we still just got \$100 after it is all over with and we are going to take part of that \$100 to pay it off.

Sheppard stated the basic assumption that the \$100 is limited is not correct. What's going to happen is the tax base will increase. The \$100 will remain the same, the city will still get their \$100, but any taxes above the \$100 would be the portion that would be used to finance some of the improvements.

Shanklin stated that is not the way he understood it.

Sheppard stated that is what tax increment financing is. The city, the county, the school systems, all of the entities that now benefit from the taxes will not be harmed. The taxes will not be cut.

Shanklin stated he understood that tax, but he was talking about sales tax.

Sheppard stated it is the same thing.

Shanklin questioned that if the mall reduces to this size and the new businesses generate sales tax and we don't

get any of that but 5%, we have changed that economy to this economy.

Sheppard stated you don't change the economy, it's based on the tax dollars that are in existence now, whether a business stays or goes it still generates the same tax dollars. Those tax dollars would remain the same for the city, sales tax dollars.

Shanklin stated if this killed the mall and a couple others, all that sales taxes goes to pay off the debt and these people don't return as much sales tax, we are going to be down. He stated he does not think he is wrong, they can use smoke and mirrors all they want.

Drewry stated she thinks it will attract more business and the mall will be better with more business downtown for people.

Shanklin stated he is not a naysayer, he is for it. He suggested everyone go down and look at Wichita Falls, it is so far ahead of us it's unreal.

Sheppard stated he is glad to hear Mr. Shanklin is for it because this is important to Lawton. It's progress, it's where we need to go and things we need to do.

Shanklin stated they still have to run this city based on those sales tax dollars and they could reduce.

Sheppard stated Mr. Shanklin's concept was that one business would go out and those sales taxes would disappear. That's not actually what is going to happen. It's set on a particular level of sales tax for an area, so as businesses exchange, the sales tax level will remain the same and the city will receive sales taxes at that level. When the gross sales tax goes above a certain dollar level, that increment will be used for the financing.

Shanklin stated it is the sales tax that the City of Lawton is looking forward to.

Mitchell stated for the whole district, for the entire district.

Shanklin stated they have never discussed that and he didn't know that.

Sheppard stated that is the concept.

Shanklin stated in other words our budget of about \$18-19 million will not get any larger than that.

Mitchell stated it will get larger, but the percentage of that \$18 million that is within this TIF district is protected. In fact, the way the ordinance was written that the council adopted takes another 10% of the revenues generated and provides that 10% buffer to the city for operating expenses. As the sales tax grows within the TIF district, you are actually getting a 10% return on that money.

Shanklin clarified that if they were to run everybody out we would still get our \$16 million from that TIF district.

Sheppard stated you can have your cake and eat it too.

Shanklin questioned if they have discussed this before?

Mayor Purcell stated yes, the City Council passed an ordinance.

Shanklin stated he wanted to see the minutes.

Shoemate stated that South Lake is one of his favorite places to go shop.

Jerry McClung, 6th & Columbia, stated it is too bad they knew nothing about downtown Lawton or the historic buildings or the establishment of Old Town North. They have 42 blocks of Old Town North. They have been designated as economically depressed from Railroad to 6th Street. They have doctors, lawyers with big houses and little houses and are very proud of being diverse. Many of these historic homes are not in demand anymore because they have insulted and slandered downtown because it doesn't produce money. She stated that downtown offers the library, YMCA, courthouse for federal and county, city hall, newspaper, police station, post office and parks. How are the sales tax dollars going to improve by building exactly what was torn down in urban renewal. She stated that Cache Road, which is referred to as the business district, is just a junked up street. She stated the business tax is the motivation for this entire thing, dreamed up by a bunch of strangers who don't know Lawton. She stated this is a fantasy that we cannot pay for.

Mitchell stated the west boundary of the overlay district is 4th Street. This does not extend to 6th Street.

Angela Thompson stated she is a historical home owner in the rezoning area. She questioned how this would affect

the residents in which they reside at 5th & Gore.

Mayor Purcell stated the area stops at 4th Street.

Tracy Glenn stated she just bought the old Comanche Real Estate building at 1st and Gore, and she wondered who it will affect in that area. She stated it has been rezoned twice since she purchased it.

Rogalski stated that area is commercial central and the land uses are department stores, professional office and financial institutions. He stated she would not be in nonconformance as far as use, but she may be in nonconformance with the architectural standards. She could remain in nonconformance as long as they do not expand the building. He stated they have covered nonconformity in the overlay district. They can remodel or update a building that is nonconforming. If the building burned down, the owner could rebuild the building exactly as it is and they don't have to be in conformance.

Jackson stated he was born at 407 Euclid. He lived there for thirteen years and he has a lot of memories of Old Town North. He personally believes that, after reading all the overlay information and checking the maps, the overlay district will do nothing but enhance the area. The standards for 2nd Street and the D-6 area will help protect the area. He believes that this is a good thing for the area and that no one has any intentions of infringing upon the area.

Rogalski stated there is an area designated to serve as a buffer to Old Town North which is medium intensity residential.

Jackson stated that more than any other neighborhood in Lawton, this one is looking towards protection and enhancement.

Dana Davis, Lawton-Fort Sill Chamber of Commerce, stated in December 2004 the chamber started talking to the City Council and the general public about the Lawton Area Strategy for Economic Revitalization (LASER). They talked about downtown revitalization as being just one piece of that equation and how important it is to have a vibrant downtown area and the economic impact it would have upon the entire community. This overlay process is just another step in making the downtown the place that they need it to be in order to enhance economic growth for the entire community. The intent is to do nothing but enhance Old Town North and increase the value of those properties in the general vicinity. He stated on behalf of the Chamber, he expressed his support for the overlay district. This protects those investments, enhances the regional as a whole and enhances the value of the properties in this particular district.

Jackson questioned where they were at in the RFQ process.

Davis stated RFQ's have technically been released. They did that on September 6th. They are in the process of putting those on a disk that will go out to about 150 developers nation wide and ask them to submit their responses no later than November 15th. They will review those and make a recommendation of 3-5 developers who will actually receive the request for proposals.

Jackson questioned if the Council will be involved.

Davis stated the Council has designated the Lawton Economic Development Authority (LEDA) as the lead city entity for that process. LEDA will be involved in the process of reviewing those RFQ's along with the consultant, John Stainback.

PUBLIC HEARING CLOSED.

Patton questioned page 11, 2d. in regards to the 50% requirement for restoration of destroyed use. He questioned if that meant that if you have more than 50% damaged that you have go back to conforming.

Vincent stated that the owner would have to submit an application through the review process. It would be up to the architectural review committee.

Mitchell stated the last sentence stated provided that the restored building may only be occupied by the nonconforming use. In other words, if the building is destroyed, the owner would be able to rebuild for that nonconforming use. If they change to something else, the owner would not be able to do so.

Vincent stated the owner would still have to go into the application process to make sure they stay with what they had before.

MOVED by Givens, SECOND by Patton, to adopt **Ordinance No. 06- 67**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None.

ABSTAIN: Shanklin. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-67

An ordinance pertaining to zoning creating Article 18-12, Chapter 18, Lawton City Code, 2005 establishing the downtown Lawton Overlay District; providing for severability; providing for codification; and declaring an emergency.

20. Hold a public hearing and consider an ordinance amending Section 18-2-1-205, Lawton City Code, establishing the power to hear and decide appeals on the interpretation, requirement, decision or determination of the Architectural Review Committee for the Downtown Lawton Overlay District to the Board of Adjustment. Exhibits: Ordinance 2006-__.

Rogalski stated the Architectural Review Committee was established in the previous ordinance as a reviewing agency for the architectural standards. This ordinance designates the Board of Adjustment as the appeal tribunal.

Vincent stated the ordinance requires that if a person is grieved by decision of the Architectural Review Committee, they have a right to appeal to the Board of Adjustment.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Drewry, SECOND by Patton, to adopt **Ordinance No. 06- 68**, waive the reading of the ordinance, read the title only. AYE: Drewry, Jackson, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. ABSTAIN: Shanklin. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-68

An ordinance pertaining to zoning amending Section 18-2-1-205, Division 1, Article 2, Chapter 18, Lawton City Code, 2005, by establishing the powers of the Board of Adjustment to hear and decide appeals on the interpretation, requirement, decision, or determination of the Architectural Review Committee for the Downtown Lawton Overlay District; and providing for severability.

21. Hold a public hearing and consider an ordinance changing the zoning from A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification located at 4102 NE Cache Road. Exhibits: Ordinance 06-__, Location Map, Application, CPC Minutes.

Rogalski stated this request includes approximately 10 acres and is proposed as part of a single-family residential development that will include approximately 190 acres. This tract was inadvertently omitted from the request by Keegan Ledford considered on August 22, 2006.

The zoning of the surrounding area is A-1 to the north, south, and east and R-2 (Multiple-Family Dwelling District) on the west. The land use of the surrounding area is vacant to the north, south, and east and single-family residential to the west. The 2025 Land Use Plan designates this tract as Residential/Low Density. The current land use is vacant. On August 24, 2006 the City Planning Commission held a public hearing on this request. No one spoke for or against the request at the public hearing. The CPC, by a vote of 7 - 0 -1, recommended approval of the rezoning.

Jackson questioned what was proposed for the green area that has not been rezoned.

Rogalski stated that is a single residence.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Jackson, SECOND by Shoemate, to adopt **Ordinance No. 06- 69**, waive the reading of the ordinance, read the title only. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Drewry. NAY: None. ABSENT: Givens. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-69

An ordinance changing the zoning classification from the existing classification of A-1 (General Agricultural District) to R-1 (Single-Family Dwelling District) zoning classification on the tract of land located at 4102 NE Cache Road which is more particularly described in section one (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

22. Hold a public hearing and consider an ordinance changing the zoning from A-1 (General Agricultural District) and F (Floodplain District) to R-1 (Single-Family Dwelling District) zoning classification with a Planned Unit Development overlay district located approximately mile south of NE Cache Road and mile west of NE Flower

Mound Road. Exhibits: Ordinance 06-____, Location Map, Site Plan, Application, CPC Minutes.

Rogalski stated this request is for 53.19 acres to be developed as a gated, single-family residential subdivision (Scissortail Development). The applicant is Warren Waggoner who has the property under contract from Lance Wade. The zoning of the surrounding area is F and P-F (Public Facilities District) to the north; R-1, R-2 (Two-Family Dwelling District), and R-3 (Multiple-Family Dwelling District) to the south; A-1 to the east; and F to the west. The land use of the surrounding area is agriculture (tribal land) to the north and west; single-family residential, duplexes, and vacant to the south; and single-family residential to the east. The 2025 Land Use Plan designates this tract as Residential/Low Density. The current land use is vacant.

On August 24, 2006 the City Planning Commission held a public hearing on this request. During the public hearing one person spoke in favor of the request, and one person spoke against the request. The CPC, by a vote of 8 - 0, recommended approval of the rezoning.

Jackson requested some clarification on the floodplain situation in that area.

Rogalski stated the designation on the rezoning map as floodplain was based on an older flood study that was done and predated Lake Ellsworth. The floodplain as it currently exists is to the west of this property. This property is not in the floodplain of Cache Creek. He stated there might be some flooding from a private channel.

Jackson questioned if we are required to protect those people from that private channel that might flood.

Rogalski stated this development will provide storm drainage detention. They will not be allowed to discharge any more stormwater than currently discharges from the property.

Jackson questioned if the channel will be required to be concrete lined.

Rogalski stated they will have to provide a trickle liner at the bottom of wherever it is incorporated into the development. That is what the new stormwater ordinance requires.

Mayor Purcell stated that this property is not in the Corps of Engineer flood plain.

Vincent stated this is not in the FEMA designated flood area.

Jackson questioned if there was a donated park land area or is this payment in lieu?

Rogalski stated this is just a rezoning. That question will be answered when the subdivision is submitted. He stated lately there has been a push towards payment in lieu.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Jackson, SECOND by Drewry, to adopt **Ordinance No. 06- 70**, waive the reading of the ordinance, read the title only. AYE: Shanklin, Patton, Warren, Shoemate, Givens, Jackson. NAY: None. ABSENT: Haywood, Drewry. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-70

An ordinance changing the zoning classification of the tract of land which is hereinafter more particularly described in Section 1 hereof from the existing classification of A-1 (General Agricultural District) and F (Floodplain District) to R-1 (Single-Family Dwelling District) zoning classification with a Planned Unit Development Overlay District; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

23. Hold a public hearing and consider an ordinance annexing approximately 160 acres of land into the corporate city limits located in Southeast Quarter of Section 2, Township 1 North, Range 13 West, I.M. Comanche County, Oklahoma, providing for severability and declaring an emergency. Exhibits: Request Letter, Location Map, Ordinance 06-____, Notice of Publication.

Vincent stated at a previous meeting the City Council annexed what was thought to be the entire 160 acres, but due to a scrivener s error in the legal description furnished to the City, they only annexed 80 acres. The intent of this ordinance is to go back and correct this error and annex the whole 160 acres of this section of land to become part of an industrial park for the Lawton Industrial Foundation.

Shanklin questioned how they miscued.

Vincent stated the Industrial Foundation asked us to annex the SE/4 of the SE/4, which is only 80 acres. They really only meant the SE/4.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Patton, SECOND by Warren, to adopt **Ordinance No. 06- 71**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Patton, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. ABSENT: Haywood. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-71

An ordinance providing for the attachment of a certain parcel of land located one-half mile south of SW Lee Boulevard and west of SW 112th Street into the City of Lawton, Comanche County, Oklahoma, classifying said territory as Temporary I-1 (Restricted Manufacturing and Warehousing District) zoning classification for a period not exceeding one (1) year, and declaring an emergency.

Mayor Purcell stated he has been asked to move up item #26.

26. Consider providing financial support to the Santa Shops Lawton Campaign in the amount of \$5,000 (Five Thousand Dollars) to be used solely for the mega event grand prize of \$10,000 (Ten Thousand Dollars) at the request of the Lawton Fort Sill Chamber of Commerce and Industry and take action as deemed necessary. Exhibits: Letter from Lawton Chamber of Commerce, dated September 15, 2006.

MOVED by Shanklin, SECOND by Jackson, to approve financial support to the Santa Shops Lawton Campaign in the amount of \$5,000 (Five Thousand Dollars) to be used solely for the mega event grand prize of \$10,000 (Ten Thousand Dollars) at the request of the Lawton Fort Sill Chamber of Commerce and Industry. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. ABSENT: Haywood, Patton. MOTION CARRIED.

24. Consider the Consolidated Annual Performance and Evaluation Report (CAPER) for Federal Fiscal Year (FFY) 2005, receive a briefing on the CAPER, hold a public hearing to receive input from citizens, consider the CAPER, and approve the report for submission to HUD. Exhibits: None. (CAPER is on file in the City Clerk s office)

Tim Libby, Housing and Community Development, distributed a packet of the slide presentation that provides for all the information to the City Council. He stated their fiscal year begins on July 1st to June 30th. They had almost \$1.8 million available for projects. They have funded thirty projects and completed ten, expending \$440,000. He stated HUD requires them to spend no more than 15% of their annual grant and they met that obligation. They spent all the money that they expended that was eligible for low-mod activities.

Ed Alexander, Housing and Community Development, presented a slide presentation. He stated the Community Housing Development Organization (CHDO) completed nine activities last year, but six of those were tearing down dilapidated structures and building a new homeowner project on that particular site. They spent two years of allocations this past year. He stated they will have a carryover of \$912,184 in matching funds if HUD ever requires them to have a match again.

Mitchell questioned if it is possible to match other housing programs with that match money.

Alexander stated that is strictly for the HOME programs. They have other funds that they could probably use for match for other programs. It all depends if that is a federal or state program. HOME match funds can not be used for other federal grants. That is not real money.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Jackson, to approve the CAPER report for submission to HUD, and authorize the Mayor to sign the report. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood. NAY: None. ABSENT: Patton. MOTION CARRIED.

25. Consider approving an E-911 Consolidation Agreement between the City of Lawton and the Comanche County Board of County Commissioners, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement is on file in the City Clerk s office.

Vincent stated at the last County Commission meeting, the board adopted the final version of the City s proposed E-911 Consolidation Agreement. He stated the County Commissioners have agreed to all the terms submitted by the City.

Jackson stated this has been a long battle and he is excited that they are here today approving this agreement.

MOVED by Jackson, SECOND by Warren, to approve an E-911 Consolidation Agreement between the City of Lawton and

the Comanche County Board of County Commissioners, and authorize the Mayor and City Clerk to execute the Agreement. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. ABSENT: Patton. MOTION CARRIED.

Mayor Purcell stated the first step in this plan was to consolidate E-911. The next step is to consolidate emergency operations. He stated he could bring back an item on the next agenda to ask if the City Council would like to consolidate emergency operations. He stated they could direct the City Attorney to meet with the County Attorney and bring back an agreement which could speed up the process.

Jackson stated that he and Warren have worked on this a long time and this is one of the agreements that they pitched to the County Commissioners. He would suggest that they make this attempt to move emergency operations under the county.

Warren suggested they direct staff to bring back the agreement ASAP.

Vincent stated they have never sat down as a staff and discussed the transfer of emergency operations and the physical characteristics to put into a contract. It will be modeled a lot like the one that was just approved.

Mayor Purcell suggested the County Attorney draw it up and let city staff look at it. They need to move on.

Vincent stated they could work it out.

Givens requested that items #36 and #37 be considered next.

36. Consider a request from the Kiowa, Comanche & Apache Intertribal Land Use Committee (KCAILUC) for a 50% (fifty-percent) discount on disposal of approximately 2,000 cubic yards of demolition debris from the rehabilitation and abatement of the old Southwestern Hospital building located on the 400 block of Lee Boulevard. Exhibits: Correspondence from KCAILUC, 11-18-05, Correspondence from KCAILUC, 7-28-06, Correspondence from KCAILUC to ASCOG, 3-21-2006.

Mitchell stated they have been meeting with the KCA for a number of months talking about this project. They have assisted the KCA in going through an environmental assessment of the building. The KCA has submitted an application to ASCOG to secure a low interest loan to do an environmental clean up of that building and are requesting that the City Council waive a portion of the landfill charges for the disposal. This is just for non-hazardous materials.

They hope that once the environmental work is completed there will be a decision made on the future use of the building. At this point the KCA is very interested in putting the building to use.

Shoemate stated they have been working on this for a long time and the KCA for years has been mowing, boarding and cleaning up the property. He stated this is the best thing that can happen to this community.

MOVED by Givens, SECOND by Warren, to approve a request from the KCAILUC for a 50% discount on disposal of approximately 2,000 cubic yards of demolition debris from the rehabilitation and abatement of the old Southwestern Hospital building located on the 400 block of Lee Boulevard. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

37. Consider approving the proposed placement of City of Lawton job titles within grades in the previously approved job classification categories. Exhibits: Job categories with job titles and suggested grade placements.

Jim Scholes, Human Resources Director, stated included in the council packets were minutes of previous Employee Advisory Committee (EAC) meetings and emails that went out to EAC member with attachments. He stated this shows that the proposed pay plan was sent out with instructions for the plan to be distributed to all employees. He stated on September 20th at 5:00 p.m. a meeting was held in Council Chambers with every city employee being invited. He stated they requested that all employees give written feedback to department heads to continue the discussion. He stated there is a lot of concern that these positions will be locked in to these classifications. The pay plan is a fluid document. City ordinance commands them to have the final version to the EAC for 30 days before they can bring it back to the City Council for a final vote. He stated on the agenda commentary ensuring that the pay plan is a work in progress and this step does not lock into a grade.

Shanklin questioned Mr. Scholes expertise in this issue.

Scholes stated he put together several pay plans at UPS.

Shanklin questioned how many Mr. Buckley has been involved in. He just wanted to know with what authority and expertise they brought to this issue. He stated that is a fair question.

Buckley stated he has dealt with personnel issues and review of pay plans for 15 years. He personally has changed or recommended changes to about four different pay plans from three different communities.

Scholes stated he headed up a marketing analysis team on three occasions at UPS for 46,000 employees.

Warren stated he has been through this process at least once and he feels there will be battles. There will be one tonight and one when the money is attached to the plan. He personally would like to fight the battle one time. In order to do this he would recommend they either table or continue this item as to such time that staff has attached money to the plan, so they only have to deal with this once.

Givens stated in previous council meetings they instructed staff to bring it in parts so that they would not waste time getting to the end and find out they were going down the wrong path.

Warren stated he feels that the positions and money go together.

Mayor Purcell stated that staff is asking for a tentative agreement with those positions being in these categories. Last time they tabled this issue because there was not proof that it had gone to the EAC for their comments. They are going to waste a lot of staff and employee time if they don't tentatively agree and they can still change it after they bring it back with dollars attached.

Scholes stated they have gotten approval step by step along the way and at this point they already know the categories themselves have been tentatively approved.

Drewry stated she knows there are some concerns and she wants to make sure that those concerns are expressed.

John Thomas, Chairman of EAC, stated he has been on vacation and he called some of the EAC members to see if Mr. Scholes and Mr. Buckley had met with the EAC as a group to discuss what was put before the City Council and he was told no. An email was sent by Mr. Scholes, but they still have yet to meet. He met with Scholes and Buckley to discuss the option of having the employees come to an open forum, which was held on September 20th. He stated this forum was not governed by the EAC, but this gave the employees who have not been involved an opportunity to ask questions. He did not attend, but some of the EAC members did attend. He stated all they could do to let those employees voice their concerns was to meet on September 20th. The EAC has yet to meet as a body on this particular item. They will call a special meeting to address this issue. He stated Mr. Scholes has been sending emails and those EAC members who don't have email do get a copy of what has been sent by Scholes or Buckley.

Jackson questioned what was the opposition to this stage of the plan.

Thomas stated there are some secretarial positions in the legal department and their job descriptions are being revamped. He stated he does not know the basis, he just received an email that those positions are being looked at. He stated there are clerical positions in the LTC category and also clerical positions in the P&A, those are the questions that are being asked.

Jackson questioned if those positions are being questioned only because they haven't attached money attached to the plan or is it just because of the placement.

Thomas stated that a clerical position in labor and trades is not going to be paid the same as a position in professional and administrative. That is the feedback that he is getting from that particular group.

Scholes stated he has gotten a lot of feedback on the clerical positions, in particular some that have worked in the legal department, who have questioned why Legal Assistant II and Legal Assistant III are in P&A. His answer is that not necessarily will a LTC10 make less than a P&A2. They may make more. P&A is not better than LTC, it is just a different classification due to the qualifications. The new job descriptions were just added to the P Drive.

Jackson stated that Mr. Scholes attached a lot of importance to marketability of that position in the location they have been placed in the pay scale.

Scholes stated there is also a restructuring of the legal department to match more closely that of other legal departments. He stated they asked for data supporting that other law firms do this. There are no other clerical positions in P&A and there are no others that will require what the job descriptions have for those positions. He believes that when the money is placed in the plan, he believes that some of these arguments will go away. He stated why should they argue when they don't have to.

Warren stated one of the issues is job descriptions. Individuals are looking at their job description versus others. They will not know if that is a good thing or a bad thing until they see the money. He thinks they go hand in hand.

Shanklin questioned if the system was broke before.

Jackson stated this system was broken when he was previously on the City Council in the mid 1980 s. He stated employees on the low end of the scale were not taken care of at that time and he does not want to see it happen this time.

Shanklin stated they do not know where they are until they see the money.

Givens stated in November of 2005 when they started working on this plan, he asked and was assured by Mr. Scholes that there would be a formal presentation to the EAC, and that they would meet and go over it and give their comments to the City Council. That was not done.

Scholes stated there is some argument back and forth about what is an official EAC meeting and what is not.

Givens stated Scholes knew exactly what he meant. He thinks it should have been presented to them at their regular meeting. They have been working on this for months, what was the hurry that they could not put it before their committee, let them go over it and give a response in writing.

Scholes stated he offered to have a special meeting to go over it with them. He did feel that the meeting held on September 20th was a joint meeting with the EAC and the invitation was not out there.

Givens stated the meeting on the 20th was only done because they brought it up at the last City Council meeting. It should have been done before it came to the Council two weeks ago.

Scholes stated he tried to honor that request.

Drewry stated now they can have a meeting and come back with dollars to the plan.

Scholes stated once dollars are assigned, the City Code mandates that the EAC has to review the plan for thirty days and provide feedback.

Mayor Purcell stated they sat here at the last meeting and said it needed to go to the EAC. He questioned why they didn't schedule a meeting between the 12th and today. He questioned whose responsibility it was to call a meeting.

Thomas stated a special meeting can be called by any committee member pertaining to any item. He stated the following week they had a meeting to discuss a grievance.

Scholes stated he was out at that meeting attending Leadership Lawton, but the data was already out at that time and they could have discussed it. The opportunity was there.

Warren questioned if there was time to put the money to the plan before the next regularly scheduled meeting of the EAC.

Thomas stated when they get to the dollars, they are really going to open up a can of worms. He does not speak for the EAC as a whole without talking with them first.

Mayor Purcell suggested someone make a motion to table this item and direct the staff to apply dollars to the plan, follow the charter which requires that the EAC will have thirty days to discuss the issue. He would request that when the meeting is set with the EAC, a note is sent to the City Council informing them of the date and time of the meeting.

Mitchell clarified that when they mean table, it means staff will use what is presented tonight as the basis for moving forward and applying the dollars to this plan.

Mayor Purcell stated they need to start somewhere.

Shanklin questioned if that means they are approving it.

Mitchell stated they are not asking for approval, but saying here is where they are. They have to have an understanding of how they are going to move forward and he is suggesting that they use this template and once they start doing the market survey and applying the dollars and ranges they are going to find out where it is flawed.

Thomas requested that the EAC have a special meeting and give them the opportunity to give some feedback to Mr. Scholes or Mr. Buckley.

Mitchell stated they can do that. He stated it was his understanding that the meeting on 20th was a joint meeting between the EAC and the employee group.

Thomas stated it was not a joint meeting, he agreed to get the meeting information to the EAC members so that they can contact their constituents.

Mitchell stated he is not suggesting it was an official meeting, but it was his understanding that it was a joint meeting between members of the EAC and any employee who wanted to attend.

Thomas stated it was open to all general employees.

Mayor Purcell clarified that the EAC is asking that the City Council not vote on this item they have before them tonight, table the issue until it goes to the EAC and they have the ability to come back at the next Council meeting. He stated that is different than what Councilmember Warren is suggesting.

Thomas stated they would like to have a meeting pertaining to this specific item and after that if they want to put dollars to it he has no objections.

Jackson stated he does not think they will know if they like it or not until the dollars are placed in the plan.

Warren stated there are just a few issues on the clerical positions that need to be ironed out. Once those are ironed out, staff can put dollars to the positions and they can bring the whole package back to Council.

Haywood stated it is also some park and recreation positions as well.

MOVED by Warren, SECOND by Drewry, to direct staff to provide the positions to the EAC, allow them to hold a special meeting and discuss the positions, then return to staff and have staff place the dollars in the plan, return that to EAC to look at the finished product for thirty days and the EAC then comes forward with their recommendation to the City Council for vote. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

27. Consider rejecting the only proposal received from Sagebrush Properties for the concession lease for the Robinson s Landing concession, review the revised draft agreement which includes a modified buy out clause and if approved direct staff to reissue the Request for Proposals (RFP) through the Lawton Water Authority and take any other action as necessary. Exhibits: Minutes of the February 14, 2006 report on the Robinson s Landing RFP and the proposed revised concession sub-lease.

Vincent stated this item was briefed to the City Council during the report section on February 14, 2006. He stated after many meetings with Terry Smith, they could just not work out, what they felt, was a mutually agreeable buyout provision. While they were having these meetings staff realized that the draft that was sent out last fall was for a lease with the City of Lawton and in fact it should be a sub lease of the Lawton Water Authority. This lease was completely rewritten with that in mind. The buyout provisions calls for a 15 year amortization on a 30 year depreciation and if Lawton Water Authority can terminate the lease early without cause then we would buy him out at the depreciated price based on a fair audited price.

Shanklin stated that is what staff wants.

Vincent stated that is what staff proposed to the City Council. It is up to the City Council to decide what goes in the agreement. The original proposal that went out in the fall had no buyout provision at all. Staff was instructed on February 14th to try and come up with a modified buyout provision.

Shanklin stated that was eight months ago, and we were doing it wrong to begin with.

Warren stated the one important thing that is in this contract as opposed to the current contract with other entities, is that any improvements that we would pay for at the end, are only those that the City Council approves during construction.

Vincent stated they could approve during the development phase when they initially approve the lease or if the concessionaire has another idea during the time period of the lease he can come back and ask for modifications.

Warren stated they have to approve the construction.

Vincent stated the other major change that Mr. Smith did agree to was they went away from the engineering development sketch to a scale sketch drawn on a topographic aerial photograph that they can furnish to whoever the vendor may be. This does not have to be certified by an engineer which saves the proposer several thousands of dollars.

Shanklin stated the RFP is not going to be much different than the first except for the buyout clause.

Vincent stated another major change is that the hours of operation will be consistent amongst all the vendors rather than a 24 hour operation.

Shanklin questioned why that would be major.

Vincent stated the original proposal says it would be a 24 hour operation at Robinson s Landing.

Shanklin stated whoever wrote that determined that issue. The City Council did not say 24 hours. It does not run 24 hours anyplace else. It never should have been in there to begin with.

Vincent stated that is why they changed it.

Shanklin stated the RFP goes out without the City Council looking at it. They could have picked up on that, but they have to wait until it comes back. He stated this is a fiasco, as is the one they are under right now. They did it under short term and duress.

Mayor Purcell suggested they just reject it and start over.

Vincent stated they do need to get this out on the street and they would like this awarded by early spring. Two weeks will not make much difference. He requested that the City Council review this and make suggestions.

Patton questioned what good would two weeks do.

Vincent stated it would allow the City Council to review the agreement.

Warren stated it is basically the same as before but now with a buyout clause and this is the important part. This is a lot fairer to us and them.

MOVED by Warren, SECOND by Shanklin to reject proposal received from Sagebrush Properties for the concession lease for the Robinson s Landing concession. Approve the draft agreement which includes a modified buy out clause and direct staff to reissue the Request for Proposals (RFP) through the Lawton Water Authority and take any other action as necessary.

Patton questioned how many requests were received and if they got any feedback.

Vincent stated they received one from Mr. Smith and one that did not comply with the requirements.

Patton stated there is a local businessman who has jumped through our hoops and is willing to take on a project that needs to be done. He does not see why they are putting it off and making him go through the time and expense when he could be focusing on getting this ready.

Shanklin stated he agrees 100%.

Patton stated he would like to go ahead and approve the proposal.

Vincent stated there is no proposal. They are try to get the revised proposal back out on the street.

Patton questioned what they were rejecting.

Vincent stated they have a proposal under the one that was issued under the City of Lawton which they cannot honor.

Shoemate stated he is tired of looking at trailers and junk. All that is doing is ruining the looks of our lakes.

VOTE ON MOTION: AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

Shanklin questioned what has been done with those who are living out at the lake year round without electric meters.

Kim Shahan, Parks and Recreation Director, stated Robinsons Landing is the only place where they are paying for hook ups and receiving water for that fee.

Shanklin stated they are getting electricity and we are paying one bill.

Shahan stated that is correct. The goal is to get this RFP out there so someone can operate.

Shanklin stated no other camp at Ellsworth have electrical hook ups. They have individual hook ups with electric meters.

Shahan stated they are set up exactly the same way.

Shanklin stated there are several others at Lake Ellsworth that are around the corner from Robinson s Landing. He questioned if they had separate electric meters or are they all on one meter.

Shahan stated everyone is on the same meter. We pay one bill. No one is paying an individual electric bill.

Shanklin questioned if that was not changed to make these people have their own electric meter.

Shahan stated he was not aware of those changes.

Warren stated he thinks they talked about Robinson s Landing and the decision was made to see what happens with this RFP. He believes the meter that Councilmember Shanklin is talking about is for day use pavilions.

Shanklin stated there are people who live out there year round.

Shoemate stated he had a friend that lived out there most of the year and his water and electricity was in one bill. It was around \$150.

Shanklin questioned if that included his rent.

Shoemate stated that was everything.

Shahan stated that is correct. The steps to change that are to initiate the opportunity for a concessionaire to change that.

Shanklin stated he is not talking about Robinson s Landing. The rest of those people are free loading.

Jackson stated Robinson s Landing will be taken care of with the new concessionaire lease. He would like to know if this takes place in other places and if so, this does not sound right.

Shahan stated everyone that pays a fee to the City of Lawton, the electricity is a part of their payment. They are not paying an electric bill.

Jackson questioned if these are year round residents.

Shahan stated at Lake Ellsworth, there is no one that has an annual permit. Robinson s Landing is the only location that has annual permits, meaning they are able to stay there annually and pay for that rent monthly and they get the electricity and water. The other locations are camp sites that are permitted 14 or 21 days and they pay a daily fee which includes electricity and water.

Jackson stated the question has not been answered if there are permanent residents around Lake Ellsworth.

Shahan stated there are no permanent annual campsites on Lake Ellsworth.

Shanklin stated there are trailers that live there year around. He will get pictures. They are not campsites.

Shahan stated the locations he is in charge of are campsites. There are trailers out there that are a part of Lake Ellsworth that are a part of the concessionaire operations that he has no control over.

Shanklin stated that is what he is talking about.

Shahan stated he is not in charge of those particular sites. That is part of the lease agreement with the concessionaire.

28. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2006 primary and 2007 general municipal elections of the Mayor and designated City Council seats; setting a ballot title; and authorizing the Mayor to issue an election proclamation. Exhibits: Resolution 06-___ and Election Proclamation.

Vincent stated the primary election is December 12, 2006. The filing period is November 14, 15 and 16, 8 am to 5 pm. If a follow up election is required, it will be on February 13, 2007. A resolution is required to be at the Comanche County Election Board at least sixty days prior to the date of the election. This is the election for the Mayor and Wards one and two.

MOVED by Shanklin, SECOND by Drewry, to approve Resolution **06-159**. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

29. Consider an ordinance amending Section 1103 G, Article 11, Chapter 10, Lawton City Code, 2005, to include Lakeview Cable, Inc., as an authorized franchise within the City of Lawton, providing for severability and codification. Exhibits: A letter from Mr. Rowell providing the background of Lakeview Cable, Inc., and the areas presently serviced, Article 11, Chapter 10, LLC 2005, and Ordinance 2006-__.

Vincent stated he was contacted by Mr. Ed Dzialo who represents Mr. William Rowell, who wished to enter into a non-exclusive franchise with the City of Lawton to provide cable services. This would be an amendment to the City Code which, after approval by the voters in 1999, allows Lawton Cablevision to be the non-exclusive franchise holder. If the City Council should approve the request, this would also require an election by the voters to approve the franchise. If the franchise is approved by the voters, Mr. Rowell would be subject to the same codes and same build out procedures as Lawton Cablevision. At some point he will have to provide cable services throughout the city. He stated Mr. Rowell would also have to put up his pro-rata share, which would be of the cost plus 10% of the election cost by cashiers check at least 45 days prior to the election, which would be approximately the 18th or 19th of October. Mr. Rowell would have to enter into a contract, similar to the Lawton Cablevision, at least 30 days prior to the election. If Mr. Rowell does not pay the fee or sign the contract the election is automatically cancelled.

Shanklin stated he feels they need to appoint a fact finding committee to see what kind of track record Mr. Rowell has. This is not a fly by night deal.

Warren stated the citizens of Lawton have clamored for competition with the cable service. He questioned if Mr. Rowell is serious about this endeavor and if he understands that if this is approved by a vote of the people that he will be required to meet all the requirements of the current cable franchise. He stated the citizens want a choice and he is afraid that we will build that hope up and approve this deal and then nothing will happen. He wants to make sure that Mr. Rowell is serious and willing to put up the money to do this thing. This is not just serving one neighborhood, we are talking about a multi-million dollar investment and the citizens will expect something for their vote.

Drewry suggested Mr. Rowell present the City Council with financials so that they know he is financially able to do this.

Mayor Purcell questioned why we have to change the definition of Franchisee in the ordinance every time we add a cable service.

Vincent stated it is because every franchisee has to specifically get approval of the voters.

Warren questioned why they could not put that a franchisee is any entity that is approved by a vote of the people to provide that service.

Vincent stated the constitution requires that all franchises be approved by a vote of the people by ordinance and this is the best way to do it.

MOVED by Shanklin, SECOND by Patton, to table this issue and appoint a fact finding council committee consisting of Shoemate, Warren and Shanklin. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

30. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of submitting to the registered qualified electors of said City the question of approving a nonexclusive cable television franchise for Lakeview Cable, Inc., on December 12, 2006, and setting a ballot title and authorizing the Mayor to issue an election proclamation. Exhibits: Letter from William D. Rowell, President of Lakeview Cable, Inc. Resolution No. 06-__ and Proclamation.

Vincent stated this item was to call an election on the ordinance that was just tabled on the previous item. This item should also be tabled.

MOVED by Drewry, SECOND by Jackson, to table this item. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

31. Consider approving the addition of Council Policy No. 11-2, Community Service Program, providing for the procedures for the implementation of the City's Community Services Program and establishing an effective date of October 15, 2006. Exhibits: Proposed Council Policy 11-2.

Vincent stated at the direction of the City Council, he and the Municipal Court Judge have come up with a community service program in conjunction with the Police Chief to provide with community service sentencing for offenders. This item and the next four items are to implement that program so that the judge has the authority to issue community service sentences commensurate with the offenses. This will be primarily aimed at littering and will allow him to issue community service sentences for juvenile offenders, over 18 but under 21, that have alcohol in their possession. The Police Chief intends to use the Sentinel program to supervise.

Warren stated they need to do this because there are normally no empty beds at the city and county jails. They need to find an alternative way to punish some individuals. This program and an expansion program in the future will be the way to go.

32. Consider an ordinance amending Section 9-1-128, Article 9-1, Chapter 9, Lawton City Code, 2005, by increasing the rate of payment for imprisonment to Twenty-Five Dollars, and defendant guilty by reason of conviction shall be able to perform work on community service projects in lieu of fine or imprisonment, providing for severability, and declaring an emergency. Exhibits: Ordinance 06-__.

Shanklin questioned if someone had a \$200 fine, does that mean he has to work 8 days.

Vincent stated the \$25 is the credit against jail time. They are suggesting that a person will be ordered so many hours of community service which will not exceed 6 hours in a given day, broken up 3 hours before lunch and 3 hours after lunch.

Shanklin questioned why wouldn't they just lay in jail for \$80, if he works he gets \$25.

Vincent stated the judge will not give them a choice. He will order them to community service. This is an alternative to jail time, not in lieu of jail time. This is not trustee status.

Chief Ronnie Smith, Lawton Police Department, stated right now it is just \$5 a day to sit in jail. The trustees make \$80 a day.

Givens questioned how this would affect the trustee program.

Chief Smith stated it will not affect it at all.

MOVED by Warren, SECOND by Patton, to approve **Ordinance 06-72**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-72

An ordinance pertaining to court amending Section 9-1-128, Article 9-1, Chapter 9, Lawton City Code, 2005, by increasing the rate of payment for imprisonment to twenty-five dollars, and defendant guilty by reason of conviction shall be able to perform work on community service projects in lieu of fine or imprisonment, providing for severability, and declaring an emergency.

33. Consider an ordinance amending Section 1-1-119, Article 1-1, Chapter 1, Lawton City Code, 2005, by allowing the Municipal Judge to order community service in addition or in lieu of fine, providing for severability, and declaring an emergency. Exhibits: Ordinance 06-__.

Vincent stated this is a companion ordinance expanding the powers of the Municipal Judge under Chapter 9 of the city code.

MOVED by Warren, SECOND by Givens, to approve **Ordinance 06-73**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-73

An ordinance pertaining to general provisions amending Section 1-1-119, Article 1-1, Chapter 1, Lawton City Code, 2005, by allowing the Municipal Judge to order community service in addition or in lieu of fine, providing for severability, and declaring an emergency.

34. Consider an ordinance amending Section 23-5-520-1, Article 23-5, Chapter 23, Lawton City Code, 2005, by increasing the rate of fines and community service upon conviction of driving under the influence while under age, providing for severability, and declaring an emergency. Exhibits: Ordinance 06-__.

Vincent stated in reviewing the Oklahoma State Statutes and comparing them with City Code on community service, staff found that there was a state statute on youthful offenders, persons between the age of 18 and 21, driving under the influence of alcohol and being allowed to provide them with community service. This ordinance will bring us into compliance with state statute. This would be a \$100 to \$500 fine and not more than 20 hours of community service for a first offense. A second offense, along with the fine, is 240 hours of community service.

MOVED by Warren, SECOND by Givens, to approve **Ordinance 06-74**, waive the ready of the ordinance, read the title only and declaring an emergency. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-74

An ordinance pertaining to vehicles and traffic amending Section 23-5-520-1, Article 23-5, Chapter 23, Lawton City Code, 2005, by increasing fines for first and consecutive convictions for driving under the influence while under age, providing for severability, declaring an emergency.

35. Consider an ordinance amending Section 4-2-1-211.1, Division 4-2-1, Article 4-2, Chapter 4, Lawton City Code, 2005, by increasing the rate of fines and community service upon conviction of consumption or possession of low point beers by minors, providing for severability, and declaring an emergency. Exhibits: Ordinance 06-__.

Vincent stated this has to do with the possession of low point beer by minors. He pointed out that this is the judges sentence. This is not the defendant s option. This is what the judge orders.

Jackson stated this is an important ordinance. We have an out of control situation with minors possessing beer and buying beer. This is an effort to try and curtain the problem as best we can. He wants the word to get out that we are serious about getting beer and alcohol out of kids hands.

MOVED by Warren, SECOND by Givens, to approve **Ordinance 06-75**, waive the ready of the ordinance, read the title only and declaring an emergency. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-75

An ordinance pertaining to alcoholic beverages amending Section 4-2-1-211.1, Division 4-2-1, Article 4-2, Chapter 4, Lawton City Code, 2005, by increasing fines for consumption or possession of low point beer by minors, providing for severability, declaring an emergency.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Shoemate stated the 7th Shoshone Reunion is taking place at the Comanche Complex today through tomorrow and will be followed by Comanche Nation Fair running Thursday through Sunday.

Drewry congratulated Albert Johnson, Sr. and Albert Johnson, Jr. who is now at Fort Sill. She questioned the dates of the upcoming fall clean up.

Ihler stated the fall cleanup will start Monday, October 2nd. It will be for a two week period.

Jackson questioned if the dates were set for the year.

Ihler stated the dates are the first two full weeks of January, April, July and October.

Drewry stated she has had a lot of calls regarding sewer back ups, flooding and problems with water. She asked if Ihler could explain the 100 year flood concept.

Ihler stated the 100 year flood or storm is a 1% chance during any one year that you will receive a certain amount of rain based on historical data. It is typically looked at over a 24 hour period. The 100 year storm over a 24 hour period is about 8.7 inches. During a 2 hour period it is about 4.3 inches for this area. You can receive a 100 year storm this week and next week. It is the amount of rainfall you receive during a period of time.

Drewry questioned if our sewer system is capable of handling this type of storm.

Ihler stated during negotiations with DEQ and EPA when we did the sewer rehab program, we negotiated that we

cannot have any overflows during the two year storm. DEQ and EPA originally wanted us to look at no overflows for a 5 year storm, but the cost would have doubled.

Shanklin stated he spoke with the City Manager about trash in the alleyways. He read in the paper that we are up for some kind of award. He stated CH2MHILL is going to provide us with a water treatment plant and they will have received more money than they did for the other one. He stated it came in at \$3.30 a gallon. There are other places it's going for \$1.50. He still doesn't like that and we didn't check it, but we are in a hurry so we can build it so we can sit and staff it out there with \$800,000 worth of labor. He stated there is a new concrete out and it allows water to run off and get into the ground. It was in the paper, it was either in the Dallas paper, the Oklahoman or this paper this week. He stated the letter from Lakeview Cable is dated September 12th and he did not see it until this afternoon. He feels they should have known about it before then. He stated Lawton Cablevision provides cable at no expense to fire stations and they do a lot of things that people don't know about and he feels Mr. Drewry should have known about it. He stated he spoke with the City Attorney about alley dumping and who is responsible. He will not haul anyone else's trash to the dump in his truck because they threw it in his dumpster. We are not picking trash up like we were. Our city is pretty dirty right now.

Patton stated he was driving through an area that uses the new trash containers and he did notice that a lot of the containers were stuffed with the lids open. At some point they will have to get tough on the issue. They need to get the word out that something will have to be done.

Haywood thanked everyone for their prayers.

Mitchell stated he distributed a letter before the meeting from DEQ. He stated we are finally over the hurdles with the mercury clean up. We will be required to submit a work plan for the balance of the work we need to do at the wastewater treatment plant.

The Mayor and Council convened in executive session at 9:30 p.m. and reconvened in regular, open session at 10:10 p.m.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

38. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the purchase of property which is necessary for the Numu Creek Channel Improvement Project #2006-10 and, if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 38. He stated the City Council was briefed on at least four offers by the various property owners and proposed actions were discussed.

MOVED by Jackson, SECOND by Haywood, to accept a warranty deed for the property owned by Don W. and Sally Beavers necessary for the Numu Creek Project and authorize payment of \$53,400 for same and authorize approval and accept a warranty deed for easement for property owned by Doris L. Taylor, trustee, necessary for the Numu Creek Project and authorize payment of \$68,000 for the same. He would also like to reject an access easement and warranty deed for temporary construction easement for property owned by the Priest Brothers, Inc, and Corley properties necessary for the Numu Creek project and authorize staff to continue negotiations. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

39. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the appeal before the Oklahoma Supreme Court of the State of Oklahoma, Case No. SD-101934, City of Lawton vs. Public Employees Relations Board and American Federation of State, County, and Municipal Employees, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 39. He stated the City Council did receive a briefing on the Supreme Court decision and possible actions that might be taken at this time.

MOVED by Drewry, SECOND by Givens, to take no further action in Supreme Court Case No. SD-101934 and to respond to issues as presented to the Oklahoma Public Employees Relations Board. AYE: Shanklin, Patton, Warren, Shoemate, Givens, Drewry. NAY: Jackson, Haywood. MOTION CARRIED.

40. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation claim of Kelly Blake, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 40.

MOVED by Warren, SECOND by Shoemate, to approve the settlement of Workers Compensation case 2004-7433-A Kelly Blake vs. the City of Lawton in the amount of \$90,000 and **Resolution 06-160** authorizing the settlement and transferring the case to Comanche County District Court for placement on the sinking fund. AYE: Shanklin, Patton, Haywood, Warren,

Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

41. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the semi-annual evaluation review of Traci Hushbeck, City Clerk, and if necessary, take appropriate action in open session. Exhibits: None

Mayor Purcell read the title of item 41. He stated because of time constraints the City Council had no discussion on this issue and it will be rescheduled for the next meeting.

Haywood stated it is too late, but he meant to vote yes on item 39.

Mayor Purcell stated it is already recorded. But it can be noted for the record.

There being no further business to consider, the meeting adjourned at 10:15 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK